

the floor of the U.S. House of Representatives.

THE MULTIDISTRICT, MULTIPARTY, MULTIFORUM JURISDICTION ACT OF 1999

HON. F. JAMES SENSENBRENNER, JR.

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1999

Mr. SENSENBRENNER. Mr. Speaker, I rise to introduce the "Multidistrict, Multiparty, Multiforum Jurisdiction Act of 1999." The bill synthesizes the contents of two other measures I have authored, H.R. 1852 and H.R. 967.

Section 2 of my bill is identical to H.R. 1852, the "Multidistrict Trial Jurisdiction Act of 1999," which I introduced on May 18 at the behest of the Administrative Office of the U.S. Courts, or the "AO." The AO is concerned over a Supreme Court opinion, the so-called *Lexecon* case, pertaining to Section 1407 of Title 28 of the U.S. Code. This statute governs federal multidistrict litigation.

Under Section 1407, a Multidistrict Litigation Panel—a select group of seven federal judges picked by the Chief Justice—helps to consolidate lawsuits which share common questions of fact filed in more than one judicial district nationwide. Typically, these suits involve mass torts—a plane crash, for example—in which the plaintiffs are from many different states. All things considered, the panel attempts to identify the one district court nationwide which is best adept at adjudicating pretrial matters. The panel then remands individual cases back to the district where they were originally filed for trial unless they have been previously terminated.

For approximately 30 years, however, the district court selected by the panel to hear pretrial matters (the "transferee court") often invoked Section 1404(a) of Title 28 to retain jurisdiction for trial over all of the suits. This is a general venue statute that allows a district court to transfer a civil action to any other district or division where it may have been brought; in effect, the court selected by the panel simply transferred all of the cases to itself.

According to the AO, this process has worked well, since the transferee court was versed in the facts and law of the consolidated litigation. This is also the one court which could compel all parties to settle when appropriate.

The *Lexecon* decision alters the Section 1407 landscape. This was a 1998 defamation case brought by a consulting entity (*Lexecon*) against a law firm that had represented a plaintiff class in the Lincoln Savings and Loan litigation in Arizona. *Lexecon* had been joined as a defendant to the class action, which the Multidistrict Litigation Panel transferred to the District of Arizona. Before the pretrial proceedings were concluded, *Lexecon* reached a "resolution" with the plaintiffs, and the claims against the consulting entity were dismissed.

Lexecon then brought a defamation suit against the law firm in the Northern District for Illinois. The law firm moved under Section

1407 that the Multidistrict Litigation Panel empower the Arizona court which adjudicated the original S&L litigation to preside over the defamation suit. The panel agreed, and the Arizona transferee court subsequently invoked its jurisdiction pursuant to Section 104 to preside over a trial that the law firm eventually won. *Lexecon* appealed, but the Ninth Circuit affirmed the lower court decision.

The Supreme Court reversed, however, holding that Section 1407 explicitly requires a transferee court to remand all cases for trial back to the respective jurisdictions from which they were originally referred. In his opinion, Justice Souter observed that "the floor of Congress" was the proper venue to determine whether the practice of self-assignment under these conditions should continue.

Mr. Speaker, Section 2 of this legislation responds to Justice Souter's admonition. It would simply amend Section 1407 by explicitly allowing a transferee court to retain jurisdiction over referred cases for trial, or refer them to other districts, as it sees fit. This change makes sense in light of past judicial practice under the Multidistrict Litigation statute. It obviously promotes judicial administrative efficiency.

Section 3 of the bill consists of the text of H.R. 967, the "Multiparty, Multiforum Jurisdiction Act of 1999," which I introduced on March 3rd. This is a bill that the House of Representatives passed during the 101st and 102nd Congresses with Democratic majorities. The Committee on the Judiciary favorably reported this bill during the 103rd Congress, also under a Democratic majority, and just last term the House approved the legislation as Section 10 of H.R. 1252, the "Judicial Reform Act." The Judicial Conference and the Department of Justice have supported this measure in the past.

Section 3 of the bill would bestow original jurisdiction on federal district courts in civil actions involving minimal diversity jurisdiction among adverse parties based on a single accident—like a plane or train crash—where at least 25 persons have either died or sustained injuries exceeding \$50,000 per person. The transferee court would retain those cases for determination of liability and punitive damages, and would also determine the substantive law that would apply for liability and punitive damages. If liability is established, the transferee court would then remand the appropriate cases back to the federal and state courts from which they were referred for a determination of compensatory and actual damages.

Mr. Speaker, Section 3 will help to reduce litigation costs as well as the likelihood of forum shopping in mass tort cases. An effective one-time determination of punitive damages would eliminate multiple or inconsistent awards arising from multiforum litigation. At the same time, however, trial attorneys will have the opportunity to go before juries in their home states for compensatory and actual damages.

Mr. Speaker, I look forward to a hearing on this measure which will take place before the Subcommittee on Courts and Intellectual Property.

The legislation speaks to process, fairness, and judicial efficiency. It will not interfere with

jury verdicts or compensation rates for litigants. I therefore urge my colleagues to support the Multidistrict, Multiparty, Multiforum Jurisdiction Act of 1999 when it is reported to the House of Representatives for consideration.

TRIBUTE TO MAJOR GENERAL
MORRIS JAMES BOYD

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 9, 1999

Mr. SKELTON. Mr. Speaker, I wish to recognize the accomplishments of a truly outstanding individual, Major General Morris J. Boyd, U.S. Army. General Boyd will soon be completing his assignment as the Deputy Commanding General of III Corps and Fort Hood, which will bring to a close a long and distinguished career in the U.S. Army. It is a pleasure for me to recognize just a few of his many outstanding achievements.

General Boyd, a native of Oakland, California, entered the Army in April 1965. Upon graduation from Officer Candidate School in March 1966 as a Distinguished Military Graduate, he was commissioned as a second lieutenant in Field Artillery. He has served in a wide variety of Field Artillery and Aviation assignments in Infantry, Air Cavalry, Mechanized, and Armored Divisions. He has commanded at battery, battalion, and brigade levels and served as Deputy Commander, V Corps Artillery, Frankfurt, Germany, and as Assistant Division Commander of the 1st Infantry Division, Fort Riley, Kansas. Staff assignments have been at battalion through Department of the Army. His most recent staff tours include an assignment as Deputy Chief of Staff for Doctrine (Headquarters, U.S. Army Training and Doctrine Command), followed by assignment to Washington, DC, as the Army's Chief of Legislative Liaison. Major General Boyd's overseas tours include Greece and Germany; two combat tours in Vietnam, one as a field artilleryman, the other as an aviator; and one in Southwest Asia, where he commanded the 42nd Field Artillery Brigade as part of VII Corps, during Operation Desert Storm. General Boyd served a tour of duty at Fort Hood during 1971–1972 with 1st Battalion, 14th Field Artillery, 2d Armored Division, as Battalion S-3 and Battery Commander.

Major General Boyd holds Bachelor of Arts and Masters degrees in Business Administration. He is a graduate of the Field Artillery Officer Advanced Course, the Fixed Wing Aviator Course, the U.S. Army Command and General Staff College, and the U.S. Army War College. His awards include the Distinguished Service Medal, Legion of Merit with 3 Oak Leaf Clusters, Distinguished Flying Cross, Bronze Star Medal with Oak Leaf Cluster, Meritorious Service Medal with Oak Leaf Cluster, Air Medal (12th Award), Army Commendation Medal with 2 Oak Leaf Clusters, Army Achievement Medal, and the Vietnam Cross of Gallantry with Silver Star. He has also earned the Parachutist Badge, Senior Aviator Wings, and Army Staff Identification Badge.

Major General Boyd and his wife Maddie live at Fort Hood, Texas. They have one son, Ray, who resides in Phoenix, Arizona.